

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ALKERMES, INC., et al.,	.
	.
Plaintiffs,	.
	. Case No. 20-cv-12470
vs.	.
	. Newark, New Jersey
TEVA PHARMACEUTICAL	. August 25, 2021
INDUSTRIES USA, INC.,	.
	.
Defendant.	.

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE MICHAEL A. HAMMER
UNITED STATES MAGISTRATE JUDGE

APPEARANCES (the parties appeared via teleconference):

For the Plaintiffs: CHARLES MICHAEL LIZZA, ESQ.
Saul Ewing Arnstein & Lehr LLP
One Riverfront Plaza
Newark, NJ 07102-5490
(973) 286-6700
clizza@saull.com

MAX H. YUSEM, ESQ.
Paul Hastings, LLP
200 Park Avenue
New York, NY 10166
(212) 318-6375
Maxyusem@paulhastings.com

Audio Operator:

Transcription Service: KING TRANSCRIPTION SERVICES
3 South Corporate Drive, Suite 203
Riverdale, NJ 07457
(973) 237-6080

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1 (APPEARANCES continued)

2

3 For the Plaintiffs: ISAAC S. ASHKENAZI, ESQ.
4 Paul Hastings, LLP
5 200 Park Avenue
6 New York, NY 10166
7 (212) 318-6432
8 Isaacashkenazi@paulhastings.com

6

7 For the Defendant: CHRISTINE INTROMASSO GANNON, ESQ.
8 Walsh Pizzi O'Reilly Falanga LLP
9 Three Gateway Center
10 100 Mulberry Street, 15th Floor
11 Newark, NJ 07102
12 (973) 757-1100
13 cgannon@walsh.law

10

11 JESSICA K. FORMICHELLA, ESQ.
12 Walsh Pizzi O'Reilly Falanga LLP
13 Three Gateway Center
14 100 Mulberry Street, 15th Floor
15 Newark, NJ 07102
16 (973) 757-1100
17 jformichella@walsh.law

14

15 JOHN CHRISTOPHER "J.C." ROZENDAAL, ESQ.
16 Sterne, Kessler, Goldstein & Fox
17 P.L.L.C.
18 1100 New York Ave, NW Suite 600
19 Washington, DC 20005
20 (202) 772-8747

17

18 UMA N. EVERETT, ESQ.
19 Sterne, Kessler, Goldstein & Fox
20 P.L.L.C.
21 1100 New York Ave, NW Suite 600
22 Washington, DC 20005
23 (202) 772-8520

21

22 MICHAEL BRUNS, ESQ.
23 Sterne, Kessler, Goldstein & Fox
24 P.L.L.C.
25 1100 New York Ave, NW Suite 600
Washington, DC 20005
(202) 772-8963

24

25

1 (Commencement of proceedings)

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3 THE COURT: We're on the record in Alkermes, Inc.,
4 et al., versus Teva Pharmaceuticals U.S.A. Inc., Civil
5 No. 20-12470.

6 May I have appearances, please, beginning with
7 plaintiff's counsel.

8 MR. LIZZA: Good afternoon, Your Honor. Charlie
9 Lizza for the Saul Ewing firm for the plaintiff. And my
10 co-counsel from Paul Hastings will also introduce themselves.

11 MR. YUSEM: This is Max Yusem from Paul Hastings,
12 also for plaintiffs.

13 MR. ASHKENAZI: Good afternoon, Your Honor. This
14 is Isaac Ashkenazi of Paul Hastings, also on behalf of
15 plaintiffs.

16 And that's it for plaintiffs.

17 THE COURT: All right. Thank you.

18 And for the defendants?

19 MS. GANNON: Good afternoon -- good afternoon,
20 Your Honor. This is Christine Gannon from Walsh Pizzi
21 O'Reilly Falanga on behalf of Teva. I also have with me from
22 Walsh Jessica Formichella. She's fairly new to this case.
23 F-o-r-m-i-c-h-e-l-l-a.

24 And our co-counsel from Sterne Kessler will
25 introduce themselves.

1 MR. ROZENDAAL: Good afternoon, Your Honor.
2 J.C. Rozendaal from Sterne Kessler. And my colleagues Uma
3 Everett and Michael Bruns are also joining me on behalf of
4 defendants.

5 THE COURT: All right. Welcome, everyone.

6 So I did not detect -- on the docket, at least --
7 any signs of trouble in terms of, you know, discovery
8 disputes and the like. Actually, it strikes me from at least
9 some of the agreements that were worked out as well before
10 Judge Arleo that the parties are working very well together.

11 But why don't I turn it over to you folks to give
12 me a more reliable status report.

13 MR. LIZZA: Thank you, Your Honor. Charlie Lizza
14 here.

15 I'm going to introduce Max Yusem from Paul
16 Hastings, who will give you a short and succinct and positive
17 summary of where we are.

18 THE COURT: Charlie knows what the Court likes. Go
19 ahead.

20 MR. YUSEM: Thank you, Charlie. Good afternoon,
21 Your Honor. I think you have surmised correctly from the
22 docket, you know, the parties have made good progress to the
23 case schedule. We've exchanged contentions. As you noted,
24 we came to an agreement on an infringement stipulation to
25 help narrow the issues for trial. We were also able to come

1 to an agreement to avoid Markman briefing and a Markman
2 hearing. So that was positive.

3 The parties are currently in the middle of fact
4 discovery, and we believe that the parties are making good
5 progress there as well.

6 We did have a meet-and-confer this morning to help
7 further clarify the parties' positions, which we're working
8 to memorialize between the parties now.

9 We don't believe that there's going to be in my --
10 that there are any current disputes -- I'm sorry -- that
11 there's any current disputes between the parties related to
12 Alkermes, the plaintiff's discovery obligations.

13 The parties are still conferring on some
14 outstanding issues regarding Teva's discovery obligations.

15 We're going to do our best, of course, to resolve
16 any disputes regarding Teva's obligations, but -- and -- but
17 we will, of course, timely notify Your Honor pursuant to the
18 Court's procedures, if we're not able to do so.

19 THE COURT: Okay. Well, I certainly can't take
20 issue with any of that.

21 How about on the defense side, anything that
22 defendants want to tell me?

23 MR. ROZENDAAL: Your Honor, this is JC Rozendaal.
24 I think that Mr. Yusem has hit the highlights. We were
25 pleased to be able to enter those stipulations to narrow the

1 | issues for trial.

2 | I think it's been fair to say that parties have
3 | been working through a number of issues on both sides with
4 | regard to discovery. I was pleased that we were able to meet
5 | and confer as recently as this morning and appear to have
6 | cleared up some ambiguity that was holding back our progress
7 | on the discovery front. And I am also hopeful that we'll be
8 | able to continue to work together to avoid having too many
9 | issues to bring to Your Honor.

10 | THE COURT: Well, I'd certainly appreciate that.

11 | All right. It sounds like, at least for now, then,
12 | the only thing left for me to do is schedule a phone
13 | conference in mid to late fall, perhaps, you know, as soon
14 | after that November 1 deadline as possible. That way, if
15 | there are any discovery disputes, hopefully I'd be in a
16 | position to address them, you know, as soon after the
17 | November 1 deadline as possible.

18 | Does that make sense?

19 | MR. LIZZA: Your Honor, this is Charlie Lizza
20 | again.

21 | There was some discussion on the call this morning,
22 | on the meet-and-confer call -- and I guess the ball is in
23 | Teva's court to get back to us on what we hope is the one
24 | remaining issue as early as next week.

25 | So speaking optimistically, if the parties are able

1 to resolve that narrow field of disputes, then I think the
2 November 1st date makes good sense. We'll have finished
3 substantial completion of discovery in mid-October. And I
4 think that timing would be great.

5 If, on the other hand, the parties are not able to
6 resolve this last issue, so to speak, then my suggestion
7 would be that following Your Honor's joint letter process, we
8 submit a joint letter which would probably arrive with you
9 mid-September, maybe third week in September. And then,
10 perhaps, in that letter, we could request, if the Court is so
11 inclined, a conference to address that dispute.

12 Our present view of the nature of the dispute is
13 such that it's probably narrow enough that it could be
14 briefed in a joint letter in less than 10 pages, and then --

15 THE COURT: Charlie, you are hitting all the high
16 points today with stuff the Court likes to hear.

17 Sorry. Keep going.

18 MR. LIZZA: Well, so what our thinking is if we
19 requested a conference, we might want to do a conference a
20 little sooner than November 1st. Hopefully, Your Honor would
21 have time to review the joint letter and -- some conclusions.
22 And we might be able to get it resolved, and that would move
23 the case along nicely.

24 THE COURT: No, I understand. I certainly
25 understand the logic of what you're proposing. Just

1 | logistically, as you folks may know -- and I know Charlie
2 | knows this -- you know, the magistrate judges and the
3 | district judges, but speaking in terms of discovery disputes,
4 | magistrate judges are so busy -- my calendar's filling up two
5 | and three months out.

6 | So here's what I propose. So the idea that, you
7 | know, I might -- I'm going to put a date on for the next
8 | conference anyway, just so it doesn't fall off of the Court's
9 | radar screen. But the idea that I might be able to do one on
10 | very short notice is improbable.

11 | The earliest I could give -- here, I'm going to
12 | throw it out to you folks. My -- my very diligent law clerk
13 | Jason just gave me three options. There's October 21 at 11;
14 | November 1 at 11; or November 8 at 3:30. Pick your poison.

15 | MR. YUSEM: Charlie, this is Max Yusem speaking,
16 | and, Charlie, unless you have any other thoughts, I think, at
17 | least, from our perspective, October -- the October 21 date
18 | makes sense.

19 | THE COURT: It sounds like the discovery dispute
20 | would be teed up by then anyway. Right?

21 | MR. LIZZA: Right.

22 | THE COURT: If there is one for me to adjudicate.

23 | MR. LIZZA: Right. That would be the idea that
24 | we --

25 | THE COURT: Okay.

1 MR. LIZZA: -- could tee that up by, you know, late
2 September, that it would give you three weeks before the
3 conference, and hopefully it might be resolved.

4 THE COURT: All right. So I'm putting -- I'll put
5 the next conference down for October 21, and, obviously, if
6 there's a dispute (A) hopefully, it will be as narrow as
7 advertised, but in any event, I'm not -- certainly not going
8 to change, move up the deadline. Hopefully you folks will
9 have it teed up so I can deal with it at the conference. And
10 if you folks have resolved the issue, then you can either let
11 me know we don't need a conference or I'm happy to have a
12 conference and speak with counsel anyway, even if it's short
13 and just a check-in and congratulate you for solving the
14 discovery dispute.

15 But we'll put it down for October 21 at 11 A.M.,
16 then.

17 MR. LIZZA: Terrific.

18 THE COURT: All right. Folks, well, I hope you
19 folks enjoy what little we have left of the summer. And I'll
20 talk with you soon.

21 UNIDENTIFIED SPEAKERS: Thank you, Your Honor.

22 THE COURT: Thank you. Bye-bye.

23 (Conclusion of proceedings)

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|Hearing
|20-cv-12470, August 25, 2021
|Certification

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Certification

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I further certify that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

s/ *Sara L. Kern*

27th of August, 2021

Signature of Approved Transcriber

Date

Sara L. Kern, CET**D-338
King Transcription Services
3 South Corporate Drive, Suite 203
Riverdale, NJ 07457
(973) 237-6080